

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Darlee Newhoff and Jacqueline Newhoff, )  
individually and as the co-personal )  
representatives of the Estate of Dallas )  
Newhoff, deceased, )

Plaintiffs, )

vs. )

R.J. Corman Railroad Group, LLC, James )  
Samuelson, d/b/a Samuelson Painting & )  
Construction, John Doe 1 – X, Jane Doe )  
1 – X, and William Germand Trust, )

Defendants. )

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Case No. 4:15-cv-123

---

On September 8, 2015, Plaintiffs initiated this action against the Defendants by filing a complaint. See Docket No. 1. The Clerk’s office issued summonses that same day. See Docket No. 4. On October 27, 2015, a “Stipulation of Dismissal without Prejudice” was filed. See Docket No. 20. On October 28, 2016, the Court adopted the stipulation and dismissed the Plaintiffs’ claims against R.J. Corman Railroad Group and James Samuelson, d/b/a Samuelson Painting & Construction. See Docket No. 21. To date, the summons for Defendant William Germand Trust (“the Trust”) has not been returned executed. It is unclear whether the Trust has been served; however, no one has appeared on behalf of the trust or filed a responsive pleading on its behalf.

On March 1, 2016, Magistrate Judge Charles S. Miller, Jr. issued an order for the Plaintiffs to show cause on or before May 2, 2016, as to why their claims against the Trust should not be dismissed for failure to prosecute. See Docket No. 23. To date, Plaintiffs have failed to respond to Judge Miller’s directive.

On May 6, 2016, Judge Miller issued a Report and Recommendation recommending that the Court, on its own motion, dismiss Plaintiffs' claims against the Trust without prejudice. See Docket No. 24. Judge Miller further recommended that the Court dismiss the remainder of the action without prejudice unless, in response to the Report and Recommendation, the Plaintiffs show cause why the entire case should not be dismissed. The parties were given fourteen days to file any objections to the Report and Recommendation. No objections were filed.

The Court has carefully reviewed Judge Miller's Report and Recommendation, the relevant case law, and the entire record, and finds the Report and Recommendation to be persuasive. Plaintiffs failed to respond to Judge Miller's order to show cause why the entire case should not be dismissed and failed to object to the Report and Recommendations. Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 24) in its entirety. The Plaintiffs' claims against the Trust and the "John Doe" and "Jane Doe" Defendants are **DISMISSED WITHOUT PREJUDICE**.

**IT IS SO ORDERED.**

Dated this 25th day of May, 2016.

/s/ Daniel L. Hovland  
Daniel L. Hovland, District Judge  
United States District Court